

Express Mail No. EL 499 467 463US  
Docket No. 20350 US1 (C38435/128572)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Divisional Application of :

Tatsuo HOSHINO, *et al.*

Parent Serial No.: 09/518,386

Parent Filed: March 3, 2000

For: **ASTAXANTHIN SYNTHASE**

)  
) Examiner (Expected): M. Monshipouri  
) Art Unit (Expected): 1652  
)

New York, New York  
February 1, 2002

**REQUEST FOR FILING A RULE 1.53(b) DIVISIONAL APPLICATION**

Box Patent Application  
Commissioner for Patents  
Washington, D.C. 20231

Sir:

This is a request for filing a divisional application under 37 CFR Section 1.53(b), of prior pending U.S. Application Serial No. 09/518,386, filed March 3, 2000, which is now allowed.

1. ☒ A copy of the prior application, including the oath or declaration as originally filed in the parent case, is enclosed.
2. ☐ Copies of amendments filed \_\_\_\_ and \_\_\_\_ to "complete" the parent application are enclosed. The undersigned hereby verifies that enclosed copies of the amendments are true copies of the amendments as originally filed in the parent case and that the amendments did not introduce impermissible new matter into that application.



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3. ☒ The filing fee is calculated below on the basis of the claims in the parent application as originally filed plus or minus any claims added or canceled by amendment:

Claims as Filed, Plus/Minus Any Claims Added/Canceled By Amendment

For	Number Filed	Number Extra	Rate	Basic Fee = \$	740.00
Total claims	14 - 20 =	0	x \$18 =	\$	0.00
Independent claims	3 - 3 =	0	x \$84 =	\$	0.00
Total Filing Fees				\$	740.00

- a. ☒ A check in the amount of **\$740.00** to cover the filing fee is enclosed. If our check is missing or otherwise insufficient, or if any additional fees are required, please charge (or credit any overpayment) to Deposit Account No. 02-4467. A duplicate copy of this paper is enclosed.
- b. ☐ Please charge Deposit Account No. 02-4467 in the amount of \$\_\_\_\_\_. A duplicate copy of this paper is enclosed.
4. ☒ For this divisional application and the parent application the Commissioner is hereby authorized to charge payment of the following fees, or to credit any overpayment, to Deposit Account No. 02-4467. A duplicate copy of this paper is enclosed.
- a. ☒ Any additional filing fees required under 37 CFR Section 1.16 not otherwise paid by check.
- b. ☒ Any patent application processing fees required under 37 CFR Section 1.17 not otherwise paid by check.
- c. ☒ Any additional Assignment recording fees under 37 CFR Section 1.21 (h) not otherwise paid by check.
5. ☒ Relation back under 35 USC § 120. Amend the specification by inserting before the first line, the sentence: - - This application is a divisional of U.S. Application Serial No. 09/518,386 filed March 3, 2000, which is now allowed. - -
6. ☒ Please cancel claims 1-18 and 28-33 (including duplicate claim 3) before calculating the filing fee.
7. ☐ A Preliminary Amendment is enclosed. Please enter it before calculating the filing fee.
8. ☒ The prior application is assigned of record to ROCHE VITAMINS INC.

9. ☐ The prior application is not assigned. An assignment to \_\_\_\_\_, a Recordation Form Cover Sheet, and a check for \$\_\_\_\_\_ to cover the recording fee are enclosed. If our check is missing or otherwise insufficient, or if any additional fees are required, please charge (or credit any overpayment) to Deposit Account No. 02-4467.

10. ☒ Address all communications to:

Stephen M. Haracz, Esq.  
BRYAN CAVE LLP  
245 Park Avenue  
New York, New York 10167-0034  
tel. (212) 692-1800  
fax (212) 692-1900

11. ☒ Drawings are part of this divisional application.

a. ☐ Transfer the drawings from the parent application to this Rule 1.53(b) application and abandon the parent application as of the filing date accorded this application. A duplicate copy of this paper is enclosed for filing in the parent case. (May be used only if the undersigned is one authorized by 37 CFR Section 1.138 and before payment of the issue fee in the parent case.)

b. ☒ New formal drawings (Figs. 1-3) are enclosed.

c. ☐ Informal drawings are enclosed. The undersigned hereby verifies that these drawings are true copies of the drawings in the parent application as originally filed.

12. ☒ A Sequence Listing is part of this divisional application.

a. ☐ A Sequence Listing in paper form in accordance with 37 CFR § 1.821(c) is part of the originally filed application. A computer readable form of the Sequence Listing is not enclosed.

b. ☒ A copy of the Sequence Listing filed December 12, 2000 in the parent case is enclosed.

c. ☒ A Request To Transfer Previously Filed Sequence Information Pursuant To CFR § 1.82(e) is enclosed.

- 10666007-020102
13. ☒ Priority is hereby claimed under 35 USC Section 119 based on Appln. No. **EP 99104668.1** filed **March 9, 1999** in **Europe** and Appln. No. **00101666.6** filed **February 1, 2000** in **Europe**.
- a. ☒ A certified copy of the priority documents is already of record in U.S. Application Serial No. 09/518,386, filed March 3, 2000.
- b. ☐ The certified priority document(s) is(are) enclosed herewith for filing in this continuing case.
- c. ☐ Certified copies of the priority document(s) will follow.
14. ☒ A Power of Attorney is of record in U.S. Application Serial No. 09/518,386 filed March 3, 2000. The Power of Attorney is to Mark E. Waddell, Reg. No. 31,803; Stephen M. Haracz, Reg. No. 33,397; Warren K. MacRae, Reg. No. 37,876; Timothy E. Tracy, Reg. No. 39,401; Kevin C. Hooper, Reg. No. 40,402; Kathleen Gersh, Reg. No. 41,806; Leo G. Lenna, Reg. No. 42,796; and Robert J. Lipka, Reg. No. 42,807. A copy of the Power Of Attorney is enclosed.
15. ☐ A Power of Attorney to Associate Attorney is of record in U.S. Application Serial No. \_\_\_, filed \_\_\_.
16. ☐ A petition for extension of time in the parent application is enclosed so that the parent application will be pending as of the time this paper is filed.

Respectfully submitted,

By: 

Gonzalo Merino  
Registration No. P51,192  
BRYAN CAVE LLP  
245 Park Avenue  
New York, New York 10167-0034  
(212) 692-1800

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For: **ASTAXANTHIN SYNTHASE**

CERTIFICATE OF EXPRESS MAILING

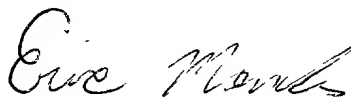
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Date of Deposit: February 1, 2002

I hereby certify that the following:

- [X] This Certificate of Express Mailing (1 pg.);
- [X] Request for Filing A Rule 1.53(b) Divisional Application (4 pp., in duplicate);
- [X] Copy of Specification, Claims, and Abstract (54 pp.);
- [X] Copy of Declaration and Power of Attorney (3 pp.) (executed);
- [X] Formal Drawings (Figs. 1-3, 3 sheets);
- [X] Request to Transfer Previously Filed Sequence Information (1 pg.) and copy of Sequence Listing (27 pp.);
- [X] Check for \$740.00 (filing fee); and
- [X] Return Postcard

are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR Section 1.10 on the Date of Deposit indicated above in an envelope addressed to the Commissioner for Patents, Washington, D.C. 20231, Attention: Box Patent Application.



Eric Morales

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212/692-1800

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New York, NY  
February 1, 2002

**REQUEST TO TRANSFER PREVIOUSLY FILED SEQUENCE**  
**INFORMATION PURSUANT TO 37 C.F.R. § 1.821(e)**

Box Patent Application  
Commissioner for Patents  
Washington, D.C. 20231

Sir:

The paper copy of the Sequence Listing in the application filed concurrently herewith is, upon information and belief, identical to the computer readable copy of the Second Substitute Sequence Listing filed in co-owned, co-pending U.S. Serial Number 09/518,386 ("the '386 application"), filed March 3, 2000 (now allowed), to which the present application claims benefit as a divisional. In accordance with 37 CFR 1.821(e), please use the last-filed computer readable form filed in the '386 application as the computer readable form for the instant application.

It is understood that the Patent and Trademark Office will make the necessary change in application number and filing date for the instant application. A paper copy of the Sequence Listing is included with the application filed concurrently herewith for incorporation into the specification.

Respectfully submitted,

By: 

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